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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,815	07/22/2003	Scott D'Avanzo	5611.00003	7787

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EXAMINER	
COLLINS, DOLORES R	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/625,815	D'AVANZO, SCOTT	
	Examiner	Art Unit	
	Dolores R. Collins	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Examiner acknowledges response by applicant's representative received 9/1/04. Examiner further acknowledges the corrections/clarifications made to address the issues of the first action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Brenner.

Brenner discloses a Poker Game using tossed Balls. Brenner teaches a wagering game table and a ball Hopper (which dispenses/sprays/spreads balls), which facilitates a random selection of one or more of the plurality of balls (see figure 1, abstract & claims 1 & 14).

2. Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner (677).

Regarding claims 19-23

Although Brenner's disclosure is directed to a game of Poker, he teaches in col. 2, lines 58-67, that other games utilizing cards are acceptable with his invention. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brenner to play other card games to add flexibility for the players.

3. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slinkman (989) in view of Webb (307).

Slinkman discloses a Method Of Playing A Blackjack Game With A Modified Betting Arrangement.

Regarding claims 1, 6, 16, 18-19 & 23

Slinkman teaches a gaming table (see figure 1), accepting a first and second wager, conducting a wagering game and resolving the first wager according to conventional rules (see abstract). Slinkman teaches a pre-established outcome (i.e., if the dealers first two cards are a standing hand), but fails to teach a resolution of the pre-established outcome being made by activation a ball dispenser.

Webb (307) discloses a Gaming Device Having A Selection-Type Bonus Game That Activates A Mechanical Device. In his bonus game, Webb teaches that based on a predetermined selection, a mechanical device, containing balls, is activated which provides the player with a modifier that is used to determine his final award. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game of Slinkman to include a mechanical ball-dispensing device to add excitement to the game.

It is further noted that the reference to Brenner (677) is used to illustrate that ball hoppers and devices in proximity of gaming tables are well known in the art.

Regarding claims 2-3, 7-8, 17 & 20-22

Slinkman teaches that his game is blackjack (see abstract). He further teaches that that his game utilizes predetermined arrangements of cards in the dealer's hand to resolve the second wager and a predetermined arrangement in the player's hand compared with the dealer's hand for the conventional game.

Regarding claims 4-5 & 9-10

Slinkman fails to teach a device that uses balls as a multiplier.

In his bonus game, Webb teaches that based on a predetermined selection, a mechanical device is activated which provides the player with a modifier (3:19-21) that is used to determine his final award. This modifier is a device with a selection of balls, which may be any indicia, symbol, or icon, which would include the limitations of these claims. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game of Slinkman to include a mechanical ball dispensing device with any indicia dictating modifier since it would only modify the game design and add excitement to the game.

Regarding claim 11

Slinkman teaches an electronic gaming machine (see figure 2) which teaches the limitations of this claim (see col. 7, lines 43-67 & col. 8, lines 1-24). Slinkman fails to explicitly teach a random number generator associated with a ball dispenser device.

Webb discloses a Gaming device having a Selection –Type bonus Game That Activates A Mechanical Device.

Webb teaches a processor with a controller (see figure 2). The controller operates to randomly select modifier objects (see col. 8, lines 26-28). Webb teaches a payment acceptor (col. 6, lines 18-22), a display (see figure 1) and in his bonus game, Webb teaches that based on a predetermined selection, a mechanical device, containing balls, is activated which provides the player with a modifier that is used to determine his final award. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game of Slinkman to include a mechanical ball-dispensing device to add excitement to the game.

Regarding claims 12 & 13

Slinkman teaches that his game is blackjack (see abstract). He further teaches that that his game utilizes predetermined arrangements of cards in the

dealer's hand to resolve the second wager and a predetermined arrangement in the player's hand compared with the dealer's hand for the conventional game.

Regarding claims 14 & 15

Slinkman fails to teach a device that uses balls as a multiplier.

In his bonus game, Webb teaches that based on a predetermined selection, a mechanical device is activated which provides the player with a modifier that is used to determine his final award. This modifier is a device with a selection of balls, which may be any indicia, symbol, or icon, which would include the limitations of these claims. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game of Slinkman to include a mechanical ball dispensing device with any indicia dictating modifier since it would only modify the game design and add excitement to the game.

Response to Arguments

Applicant's arguments filed 9/1/04 have been fully considered but they are not persuasive. Applicant argues that Brenner fails to anticipate claim 18 based on applicant's current amendment. Examiner feels that even with the recently submitted amendment, Brenner teaches a Poker game (a wagering game) using a playing surface

(table) and a ball Hopper (which dispenses/spreads/distributes a plurality of balls). Applicant's amendment describes the way in which the Hopper/dispenser functions. Claim 18 is an apparatus claim and as such no weight is given to the manner in which it is going to be used.

Applicant further argues on page 8, that there is no reason to combine the references to Slinkman and Webb. Examiner feels that the references are analogous since they are both games with devices that promote selections for game play. Further both references can be at a table (Slinkman: figure 1, Webb: col.4, lines 24-26).

Examiner maintains the rejection of the claims in this application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is ***(571) 272-4421***. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Greg Vidovich*** can be reached on ***(571) 272-4415***. The fax phone number for the organization where this application or proceeding is assigned is ***703-872-9306***.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at ***866-217-9197*** (toll-free).

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3/31/05

VISHU MENDIRATTA
PRIMARY EXAMINER